

Troy F. Tanner
Direct Phone: 202.373.6560
Direct Fax: 202.373.6464
troy.tanner@bingham.com

June 25, 2009

BY ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of Ex Parte Presentation, MD Docket Nos. 09-65 and 08-65

Dear Ms. Dortch:

Pursuant to Section 1.1206(b) of the Commission's rules, I hereby notify the Commission of an ex parte presentation made in the above-referenced proceedings. On June 24, 2009, the following individuals had separate meetings with Mark Stone, Legal Advisor to Commissioner Adelstein, and with Paul Murray, Legal Advisor to Acting Chairman Copps, to discuss matters relating to the above referenced dockets:

- Ari Fitzgerald, Hogan & Hartson LLP, on behalf of the Coalition of Canadian-based Service Providers
- Rogena Harris, Senior Counsel, Tata Communications
- Bill Hunt, Vice President, Public Policy, Level 3 Communications, LLC
- Troy Tanner, Bingham McCutchen LLP on behalf of Bestel USA, Inc., Level 3 Communications, and Hibernia Atlantic US LLC

During the meetings, we reiterated the points raised in the Comments filed by the above-parties (except Tata Communications) in the above-referenced dockets. We expressed our great concerns that the Commission not take any actions to expand the existing international bearer circuit ("IBC") regulatory fees regime to non-common carrier cross-border terrestrial circuits. We emphasized that the Commission just months ago found the IBC regulatory fee regime to be broken in the context of submarine cable systems, and that the same drawbacks of that fee regime apply here to even a greater degree. In addition, we reiterated the reasons why Section 9 of the Communications Act precludes the Commission from applying this regulatory fee to providers of non-common carrier cross-border terrestrial circuits. Finally, we encouraged the Commission in the context of a larger proceeding to review all regulatory fees to look to replacing the IBC regulatory fee regime with a framework that is both practical and lawful.

Boston
Hartford
Hong Kong
London
Los Angeles
New York
Orange County
San Francisco
Santa Monica
Silicon Valley
Tokyo
Walnut Creek
Washington

Bingham McCutchen LLP
2020 K Street NW
Washington, DC
20006-1806

T 202.373.6000
F 202.373.6001
bingham.com

A/73075161.1

Ms. Marlene H. Dortch
June 25, 2009
Page 2

Should you have any questions or require further information, please do not hesitate to contact the undersigned.

Respectfully submitted,

/s/ electronically signed

Troy F. Tanner
*Counsel Bestel USA Inc., Level 3 Communications, LLC
and Hibernia Atlantic US LLC*

cc: Mark Stone
Paul Murray